



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive, P.O. Box 36800

Billings, Montana 59107-6800

<http://www.mt.blm.gov/>



IN REPLY TO

SDR-922-02-02
3160 (922.WL)

November 21, 2001

REGISTERED-RETURN RECEIPT REQUESTED

DECISION

Mr. Michael C. Erickson
K2 America Corp.
Suite 500, 435 - 4th Avenue S.W.
Calgary, Alberta T2P 3A8

SDR No 922-02-02

AFFIRMED

K2 America Corp. (K2) requests a State Director Review (SDR) in accordance with 43 CFR 3165.3(b) of the October 22, 2001, decision by the Great Falls Oil and Gas Field Station (GFFS) Supervisor issuing an assessment for drilling the Palmer Bow Island 3-16 well without approval. The well is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, T. 32 N., R. 6 W., Tribal Lease 142002513262, Glacier County, Montana. The SDR request was considered timely filed on November 19, 2001, in accordance with 43 CFR 3165.3(b) and was assigned number SDR 922-02-02.

On October 22, a K2 representative visited the GFFS to inform them that K2 had spud the 3-16 well, and that they did not have an approved Application for Permit to Drill (APD) for the well. The K2 representative explained that they thought the well being drilled was an approved Fee well (Palmer Bow Island 10-2, NWNE, Sec. 3, T. 32 N., R. 6 W.), but that they were actually on the 3-16 well on Tribal Lease 142002513262. An inspector with the Montana Board of Oil and Gas Conservation was on location to conduct an inspection, and upon reviewing his records, he pointed out the error. The well had been spud on October 18, and the APD had not been approved. Therefore, an immediate assessment of \$2500 (\$500 per day for 5 days) was issued to K2 in accordance with 43 CFR 3163.1(b)(2) for drilling without approval.

K2 states in the SDR request that, upon realization of drilling the well at the incorrect location, they took immediate action to inform the Bureau of Land Management (BLM) by sending the representative to personally inform the BLM of the situation. They state that this incident has already financially impacted them greatly as the shut-down order issued with the assessment caused the company to lose drilling time which added rig costs. (Note: Shut-down time was approximately 14.5 hours as the approval process was expedited and the APD was approved on October 23.) K2 states that the situation occurred from an honest mistake and request that the assessment be reconsidered. K2 does not dispute that drilling operations commenced without approval.

Obtaining approval prior to drilling is extremely important. The approval ensures that: the proposed casing and cementing procedure is adequate to protect any water and/or mineral resources; the proposed pressure control equipment is adequate to protect public health and safety; adequate safeguards are taken to protect the environment. Also, conditions of approval are often attached to the approval which may modify or supplement the proposal. There are only a few violations that the BLM considers serious enough to warrant the imposition of immediate assessment. Drilling without approval is one of those violations. While K2's failure to obtain approval prior to drilling may have been an honest mistake, it does not change the fact that a serious violation

occurred. Therefore, K2's request to reconsider the assessment is denied, and the assessment issued by the GFFS is upheld.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 1). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in the Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- 1 The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay

/s/ Chun C. Wong

for

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

1 Enclosures

1-Form 1842-1 (1 p)

cc: (w/o encls.)
WO-310, LS, Rm. 406
All BLM State Offices
Great Falls Oil and Gas Field Station
Miles City Field Office
North Dakota Field Office

922:WLambert:rkd:11/22/01:x5328:WLK2.SDR.decision.wpd